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5 Daniel David Rigmaiden
 Pro Se, Defendant

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 7 **UNITED STATES DISTRICT COURT**
 8 **DISTRICT OF ARIZONA**
 9

10 United States of America,

11 Plaintiff,

12 v.

13 Daniel David Rigmaiden, et al.,

14 Defendant.

No. CR08-814-PHX-DGC

NOTICE OF OBJECTION TO
 GOVERNMENT'S REQUEST (Dkt.
 #1026) FOR ADDITIONAL TIME TO
 RESPOND TO Dkt. #1013 AND NOTICE
 OF OBJECTION TO GOVERNMENT
 RESPONDING TO Dkt. #1013 AT ALL
 AND NOTICE OF INTENT TO STRIKE
 GOVERNMENT RESPONSE

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 16 Defendant, Daniel David Rigmaiden, appearing *pro se*, respectfully submits *Notice Of*
 17 *Objection To Government's Request (Dkt. #1026) For Additional Time To Respond To Dkt.*
 18 *#1013 And Notice Of Objection To Government Responding To Dkt. #1013 At All And Notice*
 19 *Of Intent To Strike Government Response.* On May 17, 2013, the government filed Dkt.
 20 #1026 wherein it stated that the defendant had no objection to the government taking
 21 additional time to respond to four pending motions. However, when the defendant's defense
 22 asked the defendant for his position on the government's request, he was only informed of
 23 the government's intent to respond to Dkt. #1000, #1005, and #1016. The defendant was not
 24 notified of the government's intent to respond to the defendant's *First Supplement to Motion*
 25 *for Order Requiring Government to Comply With Data Deletion Requirements of N.D. Cal.*
 26 *08-70460-HRL/PVT, 08-70503-PVT, and 08-70502-PVT Warrants* (Dkt. #1013).
 27 Furthermore, the defendant could not have inferred the government's intent to respond
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considering Dkt. #1013 (previously Dkt. #927) and the parent motion at Dkt. #846^[1] were already denied by the Court on March 28, 2013 via Dkt. #1009.

The defendant objects to the government receiving additional time to respond to Dkt. #1013. The defendant also objects to the government responding to Dkt. #1013 *at all*, let alone by June 7, 2013, considering the motion and its parent motion were already denied by the Court at Dkt. #1009. On May 15, 2013, the defendant filed his notice of interlocutory appeal to the Ninth Circuit (Dkt. #1018) appealing the district court's order denying Dkt. #1013 (previously #927) and denying Dkt. #846. Two days later, the government established its intent to respond to Dkt. #1013 but did not inform the defendant of that intent prior to filing its request for additional time at Dkt. #1026. Had the defendant been asked for his position prior to the government filing Dkt. #1026, the defendant would have objected to the government's request with respect to Dkt. #1013.

The government responding to Dkt. #1013 after it was denied and while an appeal is pending in the Ninth Circuit is a clear legal tactic designed to create the appearance that the underlying issue is yet to receive "a complete and final determination... in the district court." United States v. Griffin, 617 F.2d 1342 (9th Cir. 1980). The Ninth Circuit recently ordered the defendant to show cause as to why the issue being appealed is final. Therefore, the government's intent to respond to Dkt. #1013 is a tactic that will only confuse the issue for those reviewing the record. In addition, the government responding to Dkt. #1013 is a tactic to place new arguments on the district court record so that they can be raised by the government on appeal. The defendant objects to the government's tactics and will move to strike its response to Dkt. #1013 if filed by the government.

This notice was drafted by the *pro se* defendant, however, he authorizes his shadow counsel, Philip Seplow, to file this notice on his behalf using the ECF system.

It is not expected that excludable delay under 18 U.S.C. § 3161(h) will occur as a result of this notice.

1. *I.e., Motion For Order Requiring Government To Comply With Data Deletion Requirements Of N.D.Cal. 08-70460-HRL/PVT, 08-70503-PVT, and 08-70502-PVT warrants.*

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Respectfully Submitted:

PHILP SELOW, Shadow Counsel, on
behalf of DANIEL DAVID RIGMAIDEN,
Pro Se Defendant:

s/ Philip Seplow

Philip Seplow

Shadow Counsel for Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on:

I caused the attached document to be

electronically transmitted to the Clerk's Office using the ECF system for filing and
transmittal of a Notice of Electronic Filing to the following ECF registrants:

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By: s/ Daniel Colmerauer

(Authorized agent of Philip A. Seplow, Shadow Counsel for Defendant; See ECF Proc. I(D) and II(D)(3))